

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF VIRGINIA
CHARLOTTESVILLE DIVISION

GREGORY CONTE, *et al.*,

Plaintiffs,

v.

COMMONWEALTH OF VIRGINIA, *et al.*,

Defendants.

CASE NO. 3:20-cv-38

ORDER

JUDGE NORMAN K. MOON

This matter is before the Court on its own motion. A district court possesses inherent power to stay an action before it. *Landis v. North American Co.*, 299 U.S. 254–55 (1936). The Court must weigh competing interests and consider the effect a stay may have on the Court’s docket, on counsel, and on the litigants. *Id.* Additionally, the Court must ensure that the stay is not “immoderate” and limit the scope of the stay within a reasonable time frame. *Id.* at 257. Thus, given the considerations outlined in *Landis*, the Court finds that this action should be stayed pending the outcome of the Fourth Circuit’s decision in *Kessler v. City of Charlottesville*, No. 20-1704.

Defendants have submitted four motions to dismiss for failure to state a claim and one motion to dismiss for lack of jurisdiction. Dkts. 10, 16, 21, 23, 28. Plaintiffs oppose these motions. The Court finds that the parties in this action will not be unduly prejudiced by the stay. The Fourth Circuit has already set a briefing schedule in *Kessler*. Further, because many of the issues in *Kessler* are substantially similar to the issues before the Court in this case, it could prove to be a waste of judicial resources to resolve the pending motions prior to a ruling by the Fourth Circuit.

The Court further finds that the benefit to the Court and the parties from awaiting the decision would outweigh the harm from additional delay.

Accordingly, this Court will **STAY** this action until fifteen (15) days after issuance of the Fourth Circuit's mandate in *Kessler*. The Court **DIRECTS** the parties to file a status report within fifteen (15) days of the Fourth Circuit's issuance of its mandate in *Kessler*. The parties should state in their report whether, in their view, supplemental briefing would be useful.

It is so **ORDERED**. The Clerk of the Court is directed to send a copy of this Order to all counsel of record.

Entered this 17th day of March, 2021.



NORMAN K. MOON
SENIOR UNITED STATES DISTRICT JUDGE